

ENTERED

February 14, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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|------------------|---|------------------------|
| TIMOTHY WRIGHT, | § | CIVIL ACTION NO |
| Plaintiff, | § | 4:22-cv-02225 |
| | § | |
| | § | |
| vs. | § | JUDGE CHARLES ESKRIDGE |
| | § | |
| | § | |
| CITY OF HOUSTON, | § | |
| <i>et al</i> , | § | |
| Defendants. | § | |

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Pro se Plaintiff Timothy Wright sued the City of Houston, Art Acevedo (in his official capacity), and Officers J. Shadden and M.G. Spinks, alleging that they violated his constitutional rights in connection with his arrest on April 23, 2020. Dkt 1-1.

Justin Shadden moved for summary judgment asserting that he wasn't in Houston on April 23, 2020, and isn't the Officer J. Shadden involved in the arrest of Wright. Dkt 14. Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan, recommending that this motion be granted and that the claims against Justin Shadden be dismissed with prejudice. Dkt 26.

M.G. Spinks also moved to dismiss under Rule 12(b)(6), invoking multiple reasons for dismissal. Dkt 5. Pending is a second Memorandum and Recommendation by the Magistrate Judge, this one recommending that the motion to dismiss be granted and that the claims against Spinks be dismissed with prejudice because they are time-barred. Dkt 27. This Memorandum and Recommendation also recommends that the claims against J. Shadden (as

opposed to Justin), the City of Houston, and Art Acevedo in his official capacity be dismissed without prejudice for failure to serve these Defendants or prosecute claims against them. *Ibid*.

No party filed objections to either Memorandum and Recommendation.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

No clear error appears upon review and consideration of each Memorandum and Recommendation. Dkts 26 & 27.

Each Memorandum and Recommendation is ADOPTED as the Memorandum and Order of this Court. Dkts 26, 27.

The claims against Defendants Justin Shadden and M.G. Sprinks are DISMISSED WITH PREJUDICE.

The remaining claims against Defendants J. Shadden, City of Houston, and Art Acevedo are DISMISSED WITHOUT PREJUDICE.

A final judgment will enter by separate order.

SO ORDERED.

Signed on February 14, 2023, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Ch R Eskridge II".

Hon. Charles Eskridge
United States District Judge